REMARKS

Claims 1-4, 6-10, and 12-13 are pending.

Claims 5 and 11 are cancelled.

Claim 1 is amended to clearly define the types of data that the invention operates with. The definition of metadata is disclosed in the specification on page 2, lines 15-18. The definition of essence data is defined in the specification on page 2, lines 20-22. The definition of data container is defined in the specification on page 2, lines 22-28. Definitions of physical and abstract data are disclosed in the specification on page 2, line 30 to page 3, line 4.

Examples of various metadata, essence data, container data, physical data, and abstract data are given in the specification on page 4, line 18 to page 9, line 2, and Figs. 2-4, and in other places.

The specific steps of analysis as performed in Claim 1 of these data types is disclosed in the specification on page 9, line 4 to page 10, line 10, Fig. 5, and in other places.

Claim 6 is amended by incorporating the device of Claim 11 into the claim.

The Applicants have also reproduced the amendments made to the specification that were submitted as part of the Preliminary amendment that was filed with this application previously. These amendments specifically excised the recitations to "Claim 1" and "Claim 5" as objected to by the Examiner. Applicants have made such amendments to the specification by comporting to 37 C.F.R. 1.121(b)(1).

Because the amendments objected to by the Examiner were intended by the Applicants to be cured in the preliminary amendment, Applicants are unsure as to such amendments to the specification were entered into the record. That is, even if a substitute specification were submitted by the Applicants, the Applicants

could be cancelled items that are already cancelled and added text that has already been added.

Applicants request that the Examiner give an indication as to the amendments submitted for the specification (with this paper or submitted previously with the preliminary amendment) are entered into the record.

No new matter was entered in view of these amendments.

I. 35 U.S.C. §112 Rejection of Claim 1

The Examiner rejected Claim 1 under 35 U.S.C. §112, second paragraph as being indefinite. Specifically the claim was rejected for containing language such as "said first type" in line 11 and "a device or process" in line 18 of the claim. In view of the amendments made to Claim 1, Applicants submit that the indefinite language of the claim has been removed or replaced to be more defined.

Applicants request that the Examiner remove the rejection to Claim 1.

II. 35 U.S.C. §101 Rejections of Claims 6-10 and 12

The Examiner rejected Claims 6-10 and 12 as none of the claims are directed towards subject matter. Specifically, independent Claim 6 was rejected by the Examiner because the Examiner states such a claim is a mathematical algorithm.

Specifically the Examiner states that "a claim that recites a computer that solely calculates a mathematical formula or a computer disk that stores a mathematical formula is not directed toward to the type of statutory subject matter eligible for patent protection."

Applicants are unsure how the claimed steps of Claim 6 recite a mathematical formula. Specifically, the recognition of whether received data are

different types of container data, metadata data, essence data, physical data, or abstract data, is something more than a mathematical formula?

Applicants submit that the defined method is patentable as defined under 35 U.S.C. 101 where "Whoever invents or discovers any new and useful *process*, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title," (emphasis added).

Moreover, the addition of the last claimed step of Claim 6 "transmitting said received data to a device for subsequent processing based upon the determinations made in the steps listed above" provides a "useful, concrete, and tangible result" as cited in the court decision of Diehr.

Applicants therefore submit that Claim 6 is not just a mathematical algorithm as cited to in the rejection. Even if the claimed elements were an mathematical algorithm (which they are not), previously case law cites that "When a claim containing a mathematical formula implements or applies that formula in a structure or process which, when considered as a whole, is performing a function which the patent laws were designed to protect ... then the claim satisfies the requirements of § 101," *Diamond v. Diehr*, 450 U.S. 175, 192 (1981), *See State St. Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d 1368 (CAFC, 1998) for a further application of the findings of Diamond v. Diehr. The addition of the last step of Claim 6 would also render the claim patent in view of the test cited to by the Examiner in Diehr.

Applicants therefore request that the Examiner remove the rejections to Claims 6-10 and 12.

III. 35 U.S.C. §103 Rejections of Claim 1-4, 6-10, and 12-13

The Examiner rejected Claims 1-4, 6-10, and 12-13 under 35 U.S.C. §103 as being unpatentable over Guck (U.S. Patent # 5,864,870) and in further view of Esquibel et al. (U.S. Patent # 6,662,186, hereafter referred to as 'Esquibel'). Applicants disagree with this ground of rejection.

In the rejection of Claim 1, the Examiner cites to Guck as teaching that the reference discloses that the capability of recognizing different data types. Applicants assert that Claim 1, as amended, has data types that are neither disclosed nor suggested in Guck or Esquibel, alone or in combination. Specifically, there is no recitation of "metadata being defined as data with a link pointing to reference data and any data referring to said link", "essence data being defined as data without an attached link pointing to reference data", and "a data container containing at least one of metadata, essence data, and a different data container".

Guck provides a method for storing and retrieving files of various formats in an object database. The type and content of received files are determined using the process disclosed in Guck and the determined files are transformed into objects and stored according to their type and content. The content of the received files is determined based on a content-type designation, especially the so-called MIME type, received with each file (see Guck, col. 1, line 60 to col. 2, line 42). MIME being an encoding format at allows a user to send a file as text through an electronic mail program. MIME therefore introduces different fields that describe the content of the file (itself) that has been encoded into a text format, such as converting binary to ASCII text.

That is different than the invention as claimed in amended Claim 1 as well as independent Claim 6 where on the one hand metadata, essence data and data container and on the other hand physical data and abstract data are differentiated. Not at all does Guck disclose metadata, the distinction between metadata and essence or data container. Also, Guck does not disclose the

concept of physical data and abstract data or the distinction between such data types. Finally, Guck (even when combined with Esquibel) does not evaluate the combination of such specific data types in a data segment (e.g. a file).

Esquibel et al. discloses a system and method for propagating data from one file format to another file format, i.e. a transcoding method e.g. from JPEG to GIF. Esquibel et al. does not at all refer to the content of the file but only to the file format. That corresponds to an analysis at file system level (like the recognition of standard formats like .jpg and .gif by Windows XP), without bringing the different types of data items in a file into context, or converting a word processing document over from one version of a program to a second version of the program (Esquibel, col. 4, lines 44-58). This is on the contrary to the present invention where the relationship of different data types within a file is considered, i.e. the present invention operates at a logical level "above" the data format.

Also Esquibel et al. does neither disclose metadata, the distinction between metadata and essence or data container nor show the concept of physical data and abstract data or the distinction between such data types nor describes the evaluation of the combination of such specific data types in a data segment (e.g. a file).

Moreover, the Applicants assert that the Examiner's cited combination of Esquibel with Guck would not apply to the present invention because the claimed data formats of Claims 1 and 6, and the related dependent claims are neither disclosed nor suggested in Guck with Esquibel, alone or in combination.

Applicants also note that Claim 6 claims a specific order of steps that are neither disclosed nor suggested in Guck or Esquibel, alone or in combination.

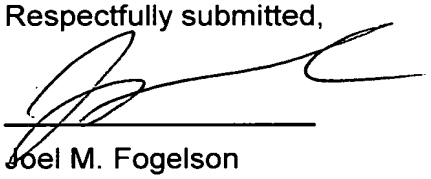
Therefore for the reasons listed above, Applicants request that the Examiner remove the rejections to Claims 1 and 6 for the reasons listed above.

Applicants also request that the Examiner remove the rejection to Claims 2-4 and Claims 7-10 and 12-13 for such claims depend on Claims 1 and 6, respectively.

Applicants request a three month extension to file this response under 37 C.F.R. 1.136(a) and 37 C.F.R. 1.17(a)(3) for $1020.00. Please charge this fee and any other fees owed for this response to Deposit Account 07-0832.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application is in condition for allowance. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6809, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,



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